IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 29125 of 2007(P)

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PETITIONERS:

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1. C.K. DAVIS, AGED 46,
   S/O. KOCHAPPAN, RESIDING AT CHAKKALAKKAL HOUSE,
   R.S. ROAD, OLLUR, THRISSUR.

2. K.P. MOHAMMED MANU, AGED 50,
   RESIDING AT KINATTINGAL PARAMBIL HOUSE,
   PALLIPURAM P.O., B.P. ANGADI, MALAPPURAM DISTRICT.

3. PURUSHOTHAMAN, AGED 44,
   RESIDING AT PUTHUPARAMBIL, PERUMBILAVU P.O.,
   THRISSUR DISTRICT.

4. KESAVA DAS, AGED 40,
   RESIDING AT KARUMATHIL HOUSE, PORKULAM P.O.,
   KUNNAMKULAM, THRISSUR DISTRICT.

5. K.A. SHAHUL HAMEED, AGED 35,
   RESIDING AT KIZHAKKETHIL HOUSE, KARIKKADU P.O.,
   THRISSUR DISTRICT.

6. C.K. JOSHY, AGED 25,
   RESIDING AT 8/424, CHENAYIL HOUSE,PORKULAM P.O.,
   KUNNAMKULAM, THRISSUR DISTRICT.

7. MELWIN, AGED 28 YEARS,
   RESIDING AT 2/456, THERMADAM HOUSE, MULAYAM,
   NADATHARA, THRISSUR DISTRICT.

8. VINOD, AGED 24,
   RESIDING AT PARAPPURATH HOUSE, KAINOOR P.O.,
   MOORKKANIKKARA, THRISSUR DISTRICT.

BY ADV. SRI.K.T.SHYAMKUMAR

RESPONDENTS:
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1. THE TRIPRANGODE GRAMA PANCHAYAT,
   TRIPRANGODE P.O., MALAPPURAM DISTRICT,
   REPRESENTED BY ITS SECRETARY.

2. THE DISTRICT EXPERT COMMITTEE
   THE KERALA PROTECTION OF RIVER BANKS AND
   REGULATION OF REMOVAL OF SAND ACT, 2001,
   REPRESENTED BY ITS EXHIBIT-OFFICIO MEMBER THE
   DISTRICT COLLECTOR, MALAPPURAM.

3. THE DISTRICT COLLECTOR, MALAPPURAM.

ADDL.4.. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO
GOVERNMENT, DEPARTMENT OF REVENUE,
SECRETARIAT, TRIVANDRUM.
IMPLEADED SUO MOTU AS PER ORDER DT. 3-10-2007.

BY ADV. SRI.T.KRISHNANUNNI FOR R1
G.P.SRI.K.J.MOHAMMED ANZAR FOR R3 & R4

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**Pius C. Kuriakose, J.**

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**W.P.(C) No. 29125 of 2007**

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**Dated this the 14th day of December, 2007**

**JUDGMENT**

Challenge in this writ petition filed by lorry owners engaged in the business of transporting river sand from various "kadavus" in Malappuram to other districts is against clauses 1, 2 and 11 of Ext.P2 circular issued bythe District Collector in his capacity as the Chairman of the District Expert Committee under the Kerala Protection of River Banks and Regulations of Removal of River Sand Act, 2001, hereinafter referred to as "the Act".

2. A detailed counter affidavit has been filed by the 3rd respondent justifying Ext.P2 circular. It is contended that Ext.P2 circular is perfectly within the jurisdiction of the Collector and that the same is issued under section 9(2) of the Act.

3. Heard both sides.

4. The question is whether the District Collector as the Chairman of the District Expert Committee is competent to completely ban transportation of river sand through a circular issued under section 9(2) of the Act or not?

5. Having regard to the principles laid down in Bijoe Emmanuel and others V. State of Kerala (1986 KLT 1037), the argument that the Collector as the Chairman of the District Expert Committee under the Act is not competent to completely ban transportation of river sand through a circular issued under section 9(2) of the Act has to be accepted. At the same time, the objective in introducing such a restriction is laudable. Learned Government pleader submits that it is likely that the Government will come out with a new circular/order/rule regulating the transportation of river sand, so as to cover the entire State. According to the learned Government Pleader, such a circular/order/rule will be issued during this month itself.

6. As regards clause (1), it is submitted that the District Collector himself through a subsequent circular had withdrawn clause (1) of Ext.P2. Clause (2) is consequential to and dependent on clause 1. Once clause 1 goes. clause 2 become irrelevant. I, therefore, quash clause (11) in Ext.P2 circular. Considering the submissions of the learned Government Pleader and the objectives behind it, it is made clear that quashment of clause (11) of Ext.P2 will become operative only for a period of one month. It will be open to the District Collector or the Government to issue fresh circulars/orders/rules regulating the transportation of river sand from district

to district. It is also made clear that this judgment will not stand in the way of the petitioners approaching the District Collector and the Committee for considering the grievance voiced by them.

The writ petition is disposed of as above.

**Pius C. Kuriakose,**
**Judge.**

**mn.**